

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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IN RE PAYMENT CARD  
INTERCHANGE FEE AND  
MERCHANT DISCOUNT  
ANTITRUST LITIGATION

**ORDER**  
MDL 05-1720 (JG) (JO)

This document refers to: ALL ACTIONS

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**PRETRIAL ORDER 5**

I. Designation of Counsel

A. Co-Lead Plaintiffs' Counsel

For the reasons set forth in a Memorandum and Order dated February 24, 2006, docket entry 278, I appoint the following three law firms as co-lead counsel for the class plaintiffs:

Robins, Kaplan, Miller & Ciresi L.L.P.; Berger & Montague, P.C.; and Lerach, Coughlin, Stoia,

Geller, Rudman & Robbins, L.L.P. Co-lead counsel shall generally be responsible for

coordinating the activities of class plaintiffs during pretrial proceedings and shall:

Determine (after consultation with co-plaintiffs' counsel) and present (in briefs, oral argument, or such other fashion as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the court and opposing parties the position of the class plaintiffs on all matters arising during pretrial proceedings;

Coordinate the initiation and conduct of discovery on behalf of class plaintiffs' consistent with the requirements of Fed. R. Civ. P. 26(b)(1), 26(2), and 26(g), including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions;

Conduct settlement negotiations on behalf of class plaintiffs, but not enter into binding agreements except to the extent expressly authorized;

Delegate specific tasks to other counsel or committees of counsel in a manner to ensure that pretrial preparation for the class plaintiffs is conducted efficiently and effectively;

Enter into stipulations with opposing counsel as necessary for the conduct of the litigation;

Prepare and distribute periodic status reports to the parties;

Maintain adequate time and disbursement records covering services as lead counsel;

Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided; and

Perform such other duties as may be incidental to proper coordination of class plaintiffs' pretrial activities or authorized by further order of the court.

This order does not limit the right of other counsel for class plaintiffs to be heard on matters not susceptible to joint or common action, or when genuine and substantial divergence of opinion exists among counsel. However, the parties and their counsel are encouraged to avoid presentations of cumulative views, or submissions that differ from those of co-lead counsel in only minor ways.

B. Liaison Counsel

1. Class Plaintiffs

I appoint the law firm Pomerantz, Haudek, Block, Grossman & Gross L.L.P. as liaison counsel for the class plaintiffs. The class plaintiffs' liaison counsel shall be responsible for facilitating and expediting communications with and among co-lead plaintiffs' counsel.

2. Non-Class Plaintiffs

I appoint the law firm Kenny Nachwalter, P.A., as liaison counsel for the non-class plaintiffs in MDL 1720. Liaison counsel for the non-class plaintiffs shall generally be

responsible for coordinating and organizing the non-class plaintiffs in the conduct of the litigation.

II. Submission Of Time Records

\_\_\_\_\_ All class plaintiffs' counsel in the class action cases shall submit on a periodic basis a record of the time expended on these matters, in a manner set forth by co-lead counsel.

III. Status Conferences And Status Reports

\_\_\_\_\_ As discussed at the initial conference on January 12, 2006, I will conduct bi-monthly status conferences with representatives of parties to this action. Absent a court order or agreement among plaintiffs' counsel to the contrary, all co-lead and liaison counsel for the plaintiffs shall participate in these status conferences. The first status conference will occur on March 8, 2006, at 9:30 a.m. This conference will take place in the Brooklyn courthouse in courtroom 5.

Prior to each scheduled status conference, the parties's counsel are directed to meet and confer and file a joint report on the progress of the case, any disputes requiring court intervention, and other issues to be discussed at the conference. The status report shall be submitted at least one week prior to the scheduled conference. If warranted, I will entertain a timely application to cancel or adjourn any such conference.

**SO ORDERED.**

Dated: Central Islip, New York  
February 24, 2006

/s/ James Orenstein  
JAMES ORENSTEIN  
U.S. Magistrate Judge